

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 14349 of 2003

DATED: 31.1.2007

Between:

S.Rajasekhar

petitioner

And

A.P.TRANSCO

Rep by its Chairman & Managing Director,
Vidyut Soudha, Hyderabad & ors

Respondents

-
THE HON'BLE SRI JUSTICE N.V.RAMANA

-
WRIT PETITION NO. 14349 OF 2003

ORAL ORDER:

The present writ petition is filed questioning the action of the respondents in not considering the case of the petitioner for the post of contract lineman (JLM) in terms of proceedings dated 13.5.2003 as illegal.

The petitioner claims that he possess the qualification of SSC and ITI (Instrument Mechanism) and has worked as contract labour from 1.9.1995 to 28.6.1998 in the second respondent corporation and is entitled to absorption to the post of Junior Lineman in terms of B.P. Ms. No. 36 dated 18.5.1997. The respondents issued proceedings dated 13.5.2003 proposing to fill up 400 Junior Lineman posts on contract basis. The said proceedings prescribe that the candidates possessing the qualification of ITI (Electrician) trade and Vocational course in Electrical Trade would be given preference. The grievance of the petitioner is that in terms of B.P.Ms.No. 36 dated 18.5.1997 the candidates with other trades were also absorbed and the proceedings dated 13.5.2003 giving preference to candidates possessing ITI with (Electrical) trade and Vocational courses in Electrical Trade is illegal. Hence, the present writ petition.

Twice the matter was adjourned at the request of the learned counsel for petitioner. Today, though the matter is posted for "orders"

none appeared for petitioner nor any representation made on his behalf. Hence, this Court has no option except to proceed with the matter based on the material available on record.

The learned Standing Counsel for the respondents submitted that in B.P.Ms.No.36, dated 18.05.1997 it was specifically mentioned that the educational qualifications required for various posts for absorption/selection of contract labourers shall be as prescribed in the Board's Service Regulations, which were in force on the date of their initial engagement, and no relaxation of educational qualifications or other technical qualifications shall be given.

Heard the learned Standing Counsel for the respondents and perused the material available on record.

To consider whether the petitioner is entitled for relaxation of educational qualification, it is appropriate to refer to Condition No.5 (b) of B.P. Ms. 36, dated 18.05.1997, which prescribes the educational qualifications. The said Condition No. 5(b) reads:

Educational Qualifications: Educational Qualifications shall be as per Board's Service Regulations in force at the time of their first engagement. There shall be no relaxation of educational qualifications or other relevant technical qualifications which are prescribed in the Service Regulations for such appointment.

From a reading of the above, it is clear that the candidates should possess the educational qualifications as prescribed in the Board's Service Regulations, which were in force at the time of their initial engagement, and no relaxation of educational or other relevant technical qualifications, prescribed in the Board's Service Regulations, shall be given.

In the present writ petition the petitioner is questioning the action of the respondents in giving preference to candidates

possessing of ITI (Electrical) Trade and Vocational Courses in Electrical Trades for selection to the post of Junior Lineman and seeks relaxation of the said condition and consideration of his case.

Whereas, Condition No.5(b) of

B.P. Ms. No.36, dated 18.05.1997, states that no relaxation in educational or other relevant technical qualifications can be given.

In this context, it would be appropriate to refer to the judgment of the apex Court in Civil Appeal No.3215 of 2002 and batch, dated 18.04.2002, wherein the apex Court having considered the question of grant of relaxation of prescribed qualifications, answered the same in the negative, holding as follows:

“In our view, in the petitions before the High Court there was no question of considering public policy and the discussion on the law was totally besides the point involved in the matter. Limited issue was – whether before regularization of service of employees, the Board was bound to follow the eligibility conditions laid down in its proceedings dated 18.05.1997 and 31.12.1997. Benefit of regularization which was conferred on the employees solely depended upon eligibility of conditions including the age limit prescribed under the statutory regulations. The statutory regulations provide that there shall be no relaxation of age. In cases, where the Board has committed mistake in engaging under-age casual employees or has permitted the contractor to do so would not confer any right on such employees for being regularized on the basis of BPMS dated 18.05.1997.

In this view of the matter, the judgment rendered by the High Court cannot be sustained and is, therefore, set aside.

However, considering the fact that the respondents/casual employees/employees of the contractor/junior linemen are in service for more than 15 years, we do not think that this would be a fit case for disturbing their appointments made in pursuance of the order passed by the High Court.

Ordered accordingly. Appeals stand disposed of.”

It is to be noted that prescription of a qualification and giving preference to candidates possessing a particular trade etc are the

administrative acts. The concerned authorities having expertise, having regard to the nature of work decide the required qualifications and this Court cannot interfere with the same. Hence, this Court is of the considered view that the prescription of condition of giving preference to candidates possessing the qualification of ITI (Electrical) Trade or Vocational Courses in Electrical Trade, cannot be said to be illegal and arbitrary. This Court in exercise of its jurisdiction under Article 226 of the Constitution of India cannot relax the prescribed qualifications, if done it would amount to rewriting the service conditions.

There are no merits in the writ petition. Accordingly the same is dismissed. No costs.

N.V.RAMANA, J.

DATE: 31.1.2007
tvk

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 24043 of 2003

DATED: 31.1.2007

-
-
-